

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

Spherix Incorporated,

Plaintiff,

v.

Verizon Service Corp., et al.

Defendants.

Case No. 1:15-cv-00576-GBL-IDD

**DEFENDANT CISCO SYSTEMS, INC.'S MOTION TO DISMISS PURSUANT TO
FED. R. CIV. P. 12(b)(6)**

Pursuant to Fed. R. Civ. P. 12(6), Defendant Cisco Systems, Inc. ("Cisco") respectfully moves the Court to dismiss Plaintiff Spherix Incorporated ("Spherix")'s Amended Complaint for Patent Infringement (Dkt. 39) for failure to state a claim upon which relief can be granted with respect to the following claims:

(i) Spherix's willful infringement claims with respect to U.S. Patent Nos. RE44,775; RE45,065; RE45,081; RE45,095; and RE45,121;

(ii) Spherix's claims that Cisco infringed U.S. Patent Nos. RE44,775; RE45,065; RE45,081; RE45,095; and RE45,121 under 35 U.S.C. § 271(b) prior to the filing of this action; and

(iii) Spherix's claims that Cisco infringes U.S. Patent Nos. 5,959,990; RE40,999; 6,111,876; RE44,775; RE45,065; RE45,081; RE45,095; RE45,121; RE45,521; and RE45,598 under 35 U.S.C. § 271(c).

The specific grounds for this Motion are set forth in the accompanying Memorandum. In making this Motion, Cisco relies upon the pleadings, applicable law, contemporaneously filed Memorandum in support of the Motion and supporting exhibits, and such oral argument as the Court may allow.

DATED: July 17, 2015

*Of Counsel for Defendant
Cisco Systems, Inc.:*

Steve Cherny
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
(212) 446-4800

Adam R. Alper
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, CA 94104
(415) 439-1400

Michael W. De Vries
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
(213) 680-8400

Respectfully submitted,

/s/ Craig C. Reilly

THE LAW OFFICE OF CRAIG C. REILLY, ESQ.
Craig C. Reilly (VSB # 22314)
111 Oronoco Street
Alexandria, VA 22314
Telephone: (703) 549-5354
Facsimile: (703) 549-5355
Email: craig.reilly@ccreillylaw.com

*Counsel for Defendant
Cisco Systems, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that, on the 17th day of July, 2015, a true copy of the foregoing pleading or paper was filed with the Court through the CM/ECF system, which effected service on all parties who have appeared in this action. Any party who has not yet appeared will be served by electronic mail.

/s/ Craig C. Reilly

THE LAW OFFICE OF CRAIG C. REILLY, ESQ.

Craig C. Reilly (VSB # 22314)

111 Oronoco Street

Alexandria, VA 22314

Telephone: (703) 549-5354

Facsimile: (703) 549-5355

Email: craig.reilly@ccreillylaw.com

Counsel for Defendant

Cisco Systems, Inc.